

FINAL DETERMINATION

DATE ISSUED AND MAILED: March 17, 2023

IN RE: *D.D. Pitts v. Community College of Phila.*, OOR Dkt. AP 2023-0457

Upon review of the appeal filed with the Office of Open Records (“OOR”) to the above-referenced docket number, as well as the Community College of Philadelphia’s (“College”) submission, it is determined that the appeal is **DISMISSED** because:

The appeal is premature. The Request was purportedly mailed on February 12, 2023. Having received no response from the College, the Requester filed an appeal with the OOR on March 2, 2023, alleging that the Request was deemed denied; however, the College never received a copy of the Request. *See Zellers Declaration*, ¶¶ 4-7. Because an appeal may only be filed from the denial or deemed denial of a request, and the College did not receive the Request prior to receiving the appeal, the appeal must be dismissed as premature. 65 P.S. § 67.901. The Requester is not prohibited from re-filing the Request with the College and, if necessary, filing an appeal with the OOR pursuant to the requirements of 65 P.S. § 67.1101(a)(1).

For this reason, the College is not required to take any further action. Within thirty days of the mailing date of this Final Determination, either party may appeal or petition for review with the Commonwealth Court. 65 P.S. § 67.1301(a). All parties must be served with notice of the appeal. The OOR also shall be served notice and have an opportunity to respond according to court rules as per 65 P.S. § 67.1303. However, as the quasi-judicial tribunal adjudicating this matter, the OOR is not a proper party to any appeal and should not be named as a party.¹

Issued by:

/s/ Joshua T. Young

JOSHUA T. YOUNG
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Sent to: D.D. Pitts (via U.S. Mail only);
Victoria Zellers, Esq., AORO (via email only)

¹ *Padgett v. Pa. State Police*, 73 A.3d 644, 648 n.5 (Pa. Commw. Ct. 2013).